

CALIFORNIA COASTAL COMMISSION

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Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NUMBER: 5-83-002-A2

APPLICANT: City of Santa Monica

PROJECT LOCATION: Portions of Ocean Park Redevelopment Area bounded by Neilson Way, Barnard Way and Ocean Park Boulevard, in the City of Santa Monica.

PROJECT DESCRIPTION OF ORIGINAL PERMIT (A-318-76):

Replacement of existing public golf course and open space with a phased development consisting of 397 condominium units, a 851-space parking garage, recreational amenities for the new residents, general landscaping on-site and within the South City Beach parking lots west of the site and a public park located on the project site.

DESCRIPTION OF PROPOSED AMENDMENT (FOURTH AMENDMENT):

Amend special condition requiring the provision of additional short-term parking along the north side of Ocean Park Boulevard, between Neilson Way and Barnard Way, to relocate 14 public parking spaces to Ocean Avenue, between Bicknell Avenue and Neilson Way. The spaces will be created through the elimination of one of two traffic lanes and restriping.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment, as conditioned, is consistent with the requirements of the Coastal Act.

DESCRIPTION OF FIRST AMENDMENT (A-318-76A):

Construction of a senior citizen housing portion of the redevelopment project. The proposed project would include 60 one-bedroom units of senior citizen low-income rental housing and

one 2-bedroom manager's unit, in a 4-story, 48 ft. high building covering 23,267 square feet, with thirty-one parking spaces.

DESCRIPTION OF SECOND AMENDMENT (A-318-76-A2):

Reduce the number of units to be rehabilitated from 27 to 22, and reduce the number of parking spaces required to accommodate the new residents of the rehabilitated units, allowing for a total of 21 spaces; construction of a six-foot fence to surround the rehabilitation project.

DESCRIPTION OF THIRD AMENDMENT (5-83-002A):

Approval of two different development plans for Phase II of the development approved in Permit NO. A-318-76 (see Exhibit no. 4 for a description of the two development plans).

SUBSTANTIVE FILE DOCUMENTS: CDP's 5-84-591, A-318-76, 5-83-002; City of Santa Monica's certified LUP.

Procedural Note: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or,
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change to the project as conditionally approved. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

RECOMMENDATION:

Staff recommends that the Commission APPROVE the permit amendment with special conditions.

USAGE NOTE: To approve an amendment to a coastal development permit, the Commission must vote "**yes**" on a motion to approve the proposed

permit amendment. The amendment is approved if a majority of Commissioners present vote “**yes.**” (Public Resources Code § 30604.)

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-83-002-A1 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. RESOLUTION TO APPROVE PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Modify Special Condition No. B.8 of CDP no. 5-83-002A as follows (additions shown in underline, deletions in strikethrough):

Street Narrowing and Landscaping. Prior to transmittal of a permit, the applicant shall submit, for the review and approval of the Executive Director, precise plans for the landscaping and street narrowing portion of the beach Access/Recreational park Improvement. The plans shall indicate species and location of landscape materials; drought-resistant, native California species shall be utilized to the maximum extent possible. The street narrowing plans shall demonstrate additional short-term parking availability along the following streets:

a. On the landward side of Barnard Way between Hollister and Ocean Park Boulevard.

~~b. Along both sides of Ocean Park Boulevard between Neilson Way and Barnard Way.~~

b. Along the south side of Ocean Park Boulevard between Neilson Way and Barnard Way (a minimum of 14 spaces).

The applicant shall provide as many spaces as possible without conflict with existing short-term parking for the residential portions of the project site and with ingress/egress routes for the project. The street narrowing program shall be adequately publicized both on a local and regional nature; the form of the publicity program shall be subject to the review and approval of the Executive Director prior to implementation of said program.

2. Add the following Special Conditions to the "Overall Conditions" of the Permit:

4. Ocean Avenue Public Parking Plans

Prior to issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, plans showing a minimum of an additional 14 metered (5-hour limit) public parking spaces on Ocean Avenue, between Bicknell Avenue and Neilson Way.

5. Construction of Ocean Avenue Parking Spaces

The 14 additional metered public parking spaces shall be installed and in operation within 90 days from the date of Commission approval of this permit. The parking spaces shall conform to the reviewed and approved plans identified in special condition no. 4.

6. Future Changes

With the acceptance of this permit the applicant agrees that any change in the hours or days of operation of the 14 short-term (5-hour minimum) metered parking spaces along Ocean Avenue, between Neilson Way and Bicknell Avenue, will require an amendment to this permit.

7. Condition Compliance

Within 60 days of Commission action on this amendment to the Coastal Development Permit, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all conditions of approval required to be satisfied prior to issuance of the Coastal Development Permit, as amended. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

Note: Unless specifically altered by this amendment, all conditions imposed on the previously approved permit, as amended, shall remain in effect (See Exhibit no. 3 for conditions).

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The City is requesting to amend special condition no. B.8. of permit 5-83-2A to relocate 14 public on-street parking spaces along the north side of Ocean Park Boulevard, between Neilson Way and Barnard Way, to Ocean Avenue, between Bicknell Avenue and Neilson Way, in the City of Santa Monica. The existing 14 parking spaces are located within the first block inland of Barnard Way, which is the first public road paralleling the sea (See Exhibit No 1 &2). The replacement spaces are located approximately 2000 feet from the existing parking spaces.

In 1977, the Commission approved a permit and subsequent amendments (#A318-76, amendments: A318-76-A1, A318-76-A2 and #5-83-2A) for a phased redevelopment project consisting of: 397 condominium units; a 851-space parking garage; recreational amenities for the new residents; general landscaping on-site and within the South City Beach parking lots; and a public park located on the inland side of Barnard Way, across from the beach. The third amendment (5-83-2A) approved, with special conditions, two different development plans for Phase II of the development approved in Permit No. A-318-76. The permit amendment was approved with three sets of special conditions (A. Overall Conditions; B. Settlement Plan Conditions; and C. Alternate Plan Conditions). All special conditions were accepted and implemented by the applicant. Special condition #B.8 of the amendment required:

Street Narrowing and Landscaping. Prior to transmittal of a permit, the applicant shall submit, for the review and approval of the Executive Director, precise plans for the landscaping and street narrowing portion of the beach Access/Recreational park Improvement. The plans shall indicate species and location of landscape materials; drought-resistant, native California species shall be utilized to the maximum extent possible. The street narrowing plans shall demonstrate additional short-term parking availability along the following streets:

a. On the landward side of Barnard Way between Hollister and Ocean Park Boulevard.

b. Along both sides of Ocean Park Boulevard between Neilson Way and Barnard Way.

The applicant shall provide as many spaces as possible without conflict with existing short-term parking for the residential portions of the project site and with ingress/egress routes for the project. The street narrowing program shall be adequately publicized both on a local and regional nature; the form of the publicity program shall be subject to the review and approval of the Executive Director prior to implementation of said program.

The permit was issued in 1977, and all development has been completed along with the provision of the required on-street public parking. At this time there is no information as to how many parking spaces were added to the north or south side of Ocean Park Boulevard, between Neilson Way and Barnard Way. There are currently approximately 14 parking spaces on the north side of the street and 16 parking spaces on the south.

At the time permit No. A-318-76 was granted, there was on-street public parking on the north side of the street, which was residentially developed. Since the north side of the street currently provides approximately 14 spaces, which is the maximum number of spaces that can be provided (given the length of the street and curb cuts), it appears that the amount added under the previous permit was less than 14 spaces since the north side of the street was developed and provided some parking at that time. It is unclear how many spaces existed at the time.

Regardless of the actual number of on-street parking spaces added under the previous permit, the City is requesting to relocate the total number of spaces the street can physically provide (14 on-street public spaces) rather than the actual number added under the previous permit. The proposed location of the new parking spaces is approximately 2,000 feet from Ocean Park Boulevard. As with the existing parking spaces, the proposed new spaces are within the first block inland of the first public road paralleling the sea.

Currently, the 14 parking spaces on the north side of Ocean Park Boulevard are not available to the general public. In February 1984, the City established a preferential parking zone (Zone B) for resident parking only without the benefit of a Coastal Development Permit. The preferential parking zone was created to support the adjacent residential neighborhood. Because of the preferential parking for residents only there are currently no short-term parking spaces for the general public along the north side of Ocean Park Boulevard.

The City is proposing to relocate the short-term public spaces to a new location so the existing public spaces on the north side of Ocean Park Boulevard will no longer be subject to the original permit restrictions identified in A-318-76. It is the City's intent, through a separate permit application, to request approval of a residential preferential parking district on the north side of Ocean Park Boulevard to support the neighborhood residents. The City has

concurrently filed a permit application (5-99-046) to establish the parking district, which is currently scheduled for hearing by the Commission.

The proposed amendment was before the Commission in January 2000. The Commission expressed concerns with the adequacy of the City's replacement parking in this amendment application and in the City's preferential parking permit applications that were concurrently before the Commission, and asked the City to explore other alternative parking mitigation measures. After the City agreed, the Commission postponed the hearing on this item and the preferential parking permit applications.

B. Public Access and Recreation

The City is proposing to relocate 14 short-term on-street public parking spaces from an area adjacent to the beach and the City's South Beach park to an on-street public parking area, located approximately 2,000 feet to the north. One of the strongest goals of the Coastal Act is to protect, provide and enhance public access to and along the coast. The relocation of public parking adjacent to the beach to another location could reduce public access opportunities in the area.

Several Coastal Act policies require the Commission to protect beach and recreation access:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, or overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30214 of the Coastal Act states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission, regional commissions, and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252(4):

The location and amount of new development should maintain and enhance public access to the coast by ...providing adequate parking facilities or providing substitute means of serving the development...

In preliminary studies that led to the adoption of the Coastal Act, the Commission and the Legislature reviewed evidence that land uses directly adjacent to the beach were required to be regulated to protect access and recreation opportunities. These sections of the Coastal Act provide that the priority of new development near beach areas shall be given to uses that provide support for beach recreation. The Commission has also evaluated these concerns in inland areas near the beach which provide coastal viewing and alternatives to the beach for jogging, strolling and cycling. Furthermore, the Commission has consistently addressed both public and private parking issues in order to protect the ability of beach visitors who depend on the automobile to access the beach.

The City's LUP states that the Santa Monica State Beach is the most heavily used beach in Los Angeles County and possibly in the State. The City has estimated that over 20 million people visit Santa Monica's beaches annually (City of Santa Monica's 1992 certified Land Use Plan). In 1998, between July and September approximately 7.5 million people came to Santa Monica beaches (County of Los Angeles Fire Department Lifeguard Division).

Two beach areas, between the Pier and the City's southern City boundary line, have been subject to a number of improvements. The beach area between the Pier and Pico Boulevard is a broad sandy beach and, according to the City's LUP, is the most active recreation-oriented area of the Santa Monica beaches. The area provides volleyball courts, outdoor gymnastic facilities, swings, a children's play area, Pedestrian promenade, and bike path. The Commission recently approved a permit [CDP #5-98-009 (City of Santa Monica)] for the renovation and improvement of this beach area including the recreational facilities and Promenade. The beach area south of Pico Boulevard is the South Beach area. The South Beach is improved with a landscaped beach park, picnic facilities, children's playground, food concessions, restrooms, pedestrian promenade and bike path [CDP #5-84-591(Santa Monica Redevelopment Agency)]. With development of hotels, restaurants, and improvements to the Pier and beach, Santa Monica beach area has been attracting an increasing amount of visitors from throughout the Los Angeles area and from outside of the region.

Across from the South Beach area is the City's redevelopment area that was approved by the Commission in 1977 (A-318-76; A-318-76-A1; A-318-76-A2; 5-83-002A). The development included 397 condominium units, private amenities, and a 6-acre public park

and accessways within a 16.2 acre site bounded by Neilson Way, Barnard Way and Ocean Park Boulevard.

In approving the City's redevelopment plan for the area, including the Ocean Park Beach Improvement Plan, the Commission found that short-term street parking was necessary to provide support for the local residents for needed residential parking, and to support the proposed on-site park use and adjacent beach recreational areas. In CDP #5-83-002A the Commission found that the provision of additional parking was necessary to:

Provide short-term parking support within the residential community, for the recreational amenities located outside of the State Beach and for short-term coastal recreational visitors.

The City is proposing to continue to provide public short-term parking in support of the recreational amenities and for coastal recreational visitors. The City proposes to relocate the 14 short-term on-street public parking spaces, currently located on Ocean Park Boulevard, to Ocean Avenue, between Bicknell Avenue and Neilson Way (see Exhibit no. 2). The new location is approximately 2,000 feet to the north of the existing location and on the first public road paralleling the sea.

Ocean Avenue, between Bicknell Avenue and Neilson Way, consists of two southbound lanes. There are currently 17 on-street metered parking spaces on the western side of the street and an island of 46 metered parking spaces on the eastern side, which is separated from Ocean Avenue by a median. The meters provide a maximum of 5-hours of parking at \$0.50 per hour.

The City will create an additional 14 short-term metered (5-hour time limit) spaces by reducing the two southbound lanes to one lane and providing additional metered spaces along the eastern side of Ocean Avenue (the City will provide a total of 25 new spaces within this segment of the street).

The City contends that by relocating the 14 short-term parking spaces to an area further to the north but still within the first block from the beach, the parking will continue to serve the short-term needs of the public for access to the beach and recreational uses. The relocated parking spaces will be located in an area with short-term parking and across from Crescent Bay Park, the "Linear Park", and in close proximity to the beach. Access from the proposed area to the beach is available either through the nearby Bicknell Avenue beach parking lot entrance or from Bay Street. Because of the proximity of the parking area to the beach and park areas, the existing parking spaces are heavily used by beachgoers and short-term coastal recreational visitors. Therefore, the additional parking will be used by beachgoers and recreationalist, and continue to serve the South Beach area.

The Commission finds that the City's proposal to re-allocate the 14 public parking spaces to Ocean Avenue would adequately provide public parking to support short-term use of the recreational and beach facilities in the area.

The location, availability, and cost (rate) of the proposed 14 short-term public parking spaces and the available public access to the beach and recreational facilities of the area is consistent with the Commission's original intent in approving the provision of short-term parking to support the recreational uses in the area. The relocation of the short-term parking will not adversely impact public access to the beach or coastal recreational areas. Therefore, special condition No. B.8 of CDP#5-83-002A will be amended to reflect that 14 public short-term parking spaces shall be provided along the eastern side of Ocean Park Boulevard, between Neilson Way and Barnard Way, instead of on the north side of the Ocean Park Boulevard. Two new special conditions are also added requiring submittal of plans prior to issuance of the amendment to the Coastal Development Permit and the construction of 14 new short-term metered (5-hour limit) public parking spaces on Ocean Avenue within 90 days of Commission action on this permit. Furthermore, to ensure that the proposed short-term parking will be maintained and continue to function as short-term public parking, a special condition placing the City on notice, that any change in the time restrictions or days of operation will require an amendment to this permit, is necessary. The Commission finds that, only as conditioned, will the proposed project be consistent with Sections 30210, 30211, 30212.5, 30213, 30214, 30223 and 30252(4) of the Coastal Act of 1976.

C. Unpermitted Development

In 1985 the City approved an ordinance creating the residential preferential parking zone that eliminated short-term public parking at the subject site. According to the City the restrictions for the zone became effective and enforced by the City in 1986. There are no records of permits issued for this development. Although unpermitted development has taken place on the property prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action by the Commission on the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

D. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson Way (Beach Overlay District), and the Santa Monica Pier. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications.

The area within the Beach Overlay District was excluded from certification after the voters approved Proposition S which discourages certain types of visitor-serving uses along the beach. In deferring this area the Commission found that, although Proposition S and its limitations on development were a result of a voters initiative, the policies of the LUP were inadequate to achieve the basic Coastal Act goal of maximizing public access and recreation to the State beach and did not ensure that development would not interfere with the public's right of access to the sea. Therefore, the subject site is not included within a certified LCP and the coastal development permit must be issued by the Commission.

As conditioned the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the project, as conditioned, will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Land Use Plan and implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. California Environmental Quality Act.

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project, as conditioned, is consistent with the applicable policies of the Coastal Act. There are no feasible alternatives or mitigation measures available, which would substantially lessen any significant adverse impact, which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.